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EXAMINER

GROSSO, HARRY A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3727

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/677,740

Applicant(s)

CHRISTENSEN, JAN

Examiner

Harry A. Grosso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-17,19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The amendment filed June 2, 2005 indicates claim 3 being presented as originally filed and claim 4 being withdrawn. Claim 3 was previously withdrawn as part of an election of species and the examiner believes the applicant's intent was to indicate claim 3 as withdrawn and claim 4 presented as originally filed. These claims will be treated as such for examination of the application.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, 10, 14 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaw et al (Shaw) (5,924,461).
3. Regarding claims 1 and 19, Shaw discloses a foldable receptacle (Figure 1, column 3, lines 29-35) with vertical sidewalls inclined inwardly and a plurality of support structures connected to the sidewalls to support them when the receptacle is empty.
4. Regarding claim 4, Shaw discloses a receptacle that is a truncated pyramid with upper corners and support structures connected to the upper corners.
5. Regarding claim 10, Shaw discloses the receptacle has an open top.
6. Regarding claim 14, Shaw discloses a foldable receptacle (Figure 1, column 3, lines 29-35) with vertical sidewalls inclined inwardly, a plurality of support structures connected to the sidewalls to support them when the receptacle is empty and each

support structure includes a vertical member (21) and a base (24) with the vertical member inclined in the direction of the base.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw in view of Van Romer (5,316,175). Shaw discloses the receptacle of claim 1 but does not teach support structure disposed within the receptacle. Van Romer discloses a foldable receptacle with support structure in the vertical sidewalls and disposed within the receptacle to provide added support to the sidewalls and retain them upright (Figure 3, column 3, lines 61-66). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of support structure disposed within the receptacle as disclosed by Van Romer in the receptacle disclosed by Shaw to provide support to the sidewalls and retain them upright.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw in view of Hoffman (2,567,514). Shaw discloses the receptacle of claim 1 and further discloses that the liner can be attached to the support structure by mechanical means (column 4, lines 59-65) but does not teach the mechanical means. Hoffman discloses a foldable receptacle with grommets in the top edge of the receptacle and hooks used to attach the receptacle to the support structure. It would have been obvious to one of

ordinary skill in the art at the time the invention was made to have incorporated the use of grommets in the top edge of the receptacle and hooks as disclosed by Hoffman in the receptacle disclosed by Shaw to provide a simple mechanical means for attaching the receptacle to the support structure.

10. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw in view of Gracie (5,622,344) and Kuo (2003/0024203 A1, February 6, 2003).

11. The receptacle of claim 1 is disclosed as discussed in paragraph 3 above, but Shaw does not teach the construction of the support structure as recited. Gracie discloses a support structure with an inclined vertical first tubular member (54), second (98) and third (100) members pivotally attached at their first end, forming acute angles when deployed (Figures 1 and 6) and adjacent each other in the storage position (Figure 7). Braces between the first and second member (92) and the first and third member (96) are pivotally connected to the second and third members at (102 and 104). The braces are attached to the first member by pivot pins (90, 94) that would be capable of being removed. Gracie does not teach that the second and third members are tubular. Kuo discloses first, second and third tubular members pivotally joined at their first end (20, 30 Figure 1 at the base of each corner and Figure 6) to provide a structure with more stability than flat members. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of support structure with an inclined vertical first tubular member, and second and third tubular members pivotally attached at their first end, forming acute angles when deployed and adjacent each other in the storage position as disclosed by Gracie and

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Kuo in the receptacle disclosed by Shaw to provide a collapsible support structure which can be folded for storage with the receptacle and has the stability to support the receptacle in use.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw in view of Hoie (4,383,564). Shaw discloses the receptacle of claim 1 but does not teach the use of an outlet or inlet flange. Hoie discloses the use of an outlet/inlet flange (6, Figure 1 and column 3, lines 33-37) for filling or tapping water from the receptacle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the outlet/inlet flange as disclosed by Hoie in the receptacle disclosed by Shaw for filling or tapping water from the receptacle.

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw, Gracie and Kuo as applied to claim 7 above, and further in view of Hoffman. The foldable water tank of claim 7 is disclosed as discussed in paragraph 11 above but Shaw, Gracie and Kuo do not teach the folding and storage of the receptacle and support structure. Hoffman disclosed the folding of the receptacle with the support structure and securing them in a canvas case with a handle (63, Figures 7 and 8, column 4, lines 63-70) for convenience of carrying as well as holding the components together. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the folding of the receptacle with the support structure and securing them in a case with a handle as disclosed by Hoffman in the water tank of claim 7 for convenience of carrying as well as holding the components together. The examiner takes official notice that the concept of placing the components

in a bag for the purpose of carrying them or protecting them is well know in the art and it would have been obvious to place them in a bag if the case were not used.

14. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw and Hoffman as applied to claim 5 above, and further in view of Van Romer (5,316,173). The foldable water tank of claim 5 is disclosed but neither Shaw nor Hoffman teaches the use of sleeves. Van Romer disclosed a foldable receptacle with sleeves (40, Figure 3) with vertical support member inserted (40a, column 4, lines 18-24) to provide stiffness to the sidewalls. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a sleeve in which a vertical support member is inserted as disclosed by Van Romer in the receptacle disclosed in claim 5 to provide stiffness to the sidewalls.

15. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw in view of Gracie and Kou. Shaw disclosed the receptacle of claim 14 and Gracie and Kou disclose the use of a foldable tubular support structure as discussed in paragraph 11 above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of support structure with an inclined vertical first tubular member, and second and third tubular members pivotally attached at their first end, forming acute angles when deployed and adjacent each other in the storage position as disclosed by Gracie and Kuo in the receptacle disclosed by Shaw to provide a collapsible support structure.

16. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw in view of Van Romer. Shaw discloses the receptacle of claim 14 and Van Romer

discloses the use of internal support structure as discussed in paragraph 8 above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of support structure disposed within the receptacle as disclosed by Van Romer in the receptacle disclosed by Shaw to provide support to the sidewalls and retain them upright.

17. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw in view of Hoffman. Shaw discloses a foldable receptacle (Figure 1, column 3, lines 29-35) with vertical sidewalls inclined inwardly and collapsible support structures connected to the sidewalls to support them when the receptacle is empty. Shaw does not teach that the receptacle has a folded and rolled configuration when not in use. Hoffman discloses folding and rolling of the receptacle with the support structure and securing them in a canvas case with a handle (63, Figures 7 and 8, column 4, lines 63-70) for convenience of carrying as well as holding the components together. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the folding and rolling of the receptacle with the support structure and securing them in a case with a handle as disclosed by Hoffman in the water tank of claim 7 for convenience of carrying as well as holding the components together.

Response to Arguments

18. Applicant's arguments with respect to claims 1, 14, 19 and 20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nathan Newhouse
Supervisory Patent Examiner
Art Unit 3727

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